

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

DAVID BOUCHER,

Plaintiff,

V.

JEVIC TRANSPORTATION, INC.,

Defendant.

**Civil Action No.
05-40111-FDS**

AMENDED ORDER OF DISMISSAL

SAYLOR, J.

The Court's Order of Dismissal, issued November 4, 2005, is hereby amended as follows:

Defendant Jevic Transportation, Inc., moved on July 7, 2005, to dismiss the complaint for failure to state a claim upon which relief can be granted. Jevic is a trucking company; plaintiff David Boucher was an employee of Jevic who worked as a truck loader. Plaintiff alleges that he worked more than 40 hours per week without overtime pay.

In support of its motion to dismiss, Jevic argues that truck loaders such as plaintiff are not covered by the protections of the Fair Labor Standards Act or the Massachusetts Fair Wage Law. *See Harrington v. Despatch Indus. L.P.*, 2005 WL 1527630 *3 (D. Mass. June 29, 2005).

Plaintiff did not file any opposition to the motion to dismiss, either within the fourteen-day period prescribed by Local Rule 7.1(B)(2) or at any time thereafter. Based on a review of the pleadings and the authorities cited therein, it appears that the motion to dismiss is meritorious and should be granted.

Accordingly, and for the reasons stated above, the motion to dismiss is GRANTED, and this matter is hereby DISMISSED.

So Ordered.

/s/ F. Dennis Saylor
F. Dennis Saylor IV
United States District Judge

Dated: November 8, 2005